
HOUSE BILL No. 1141

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-42-4-3.

Synopsis: Child molesting. Enhances child molesting to a Class B felony if the child is compelled to submit to the fondling or touching by force or the threat of force.

Effective: July 1, 2008.

Steuerwald

January 8, 2008, read first time and referred to Committee on Courts and Criminal Code.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1141

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-42-4-3, AS AMENDED BY P.L.216-2007,
2 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 3. (a) A person who, with a child under fourteen
4 (14) years of age, performs or submits to sexual intercourse or deviate
5 sexual conduct commits child molesting, a Class B felony. However,
6 the offense is a Class A felony if:

7 (1) it is committed by a person at least twenty-one (21) years of
8 age;

9 (2) it is committed by using or threatening the use of deadly force
10 or while armed with a deadly weapon;

11 (3) it results in serious bodily injury; or

12 (4) the commission of the offense is facilitated by furnishing the
13 victim, without the victim's knowledge, with a drug (as defined in
14 IC 16-42-19-2(1)) or a controlled substance (as defined in
15 IC 35-48-1-9) or knowing that the victim was furnished with the
16 drug or controlled substance without the victim's knowledge.

17 (b) A person who, with a child under fourteen (14) years of age,

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performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits child molesting, a Class C felony. However, the offense:

(1) is a Class B felony if the person compels the child to submit to the fondling or touching by using or threatening to use force; and

(2) is a Class A felony if:

~~(1)~~ **(A)** it is committed by using or threatening the use of deadly force;

~~(2)~~ **(B)** it is committed while armed with a deadly weapon; or

~~(3)~~ **(C)** the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) It is a defense that the accused person reasonably believed that the child was sixteen (16) years of age or older at the time of the conduct, unless:

(1) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon;

(2) the offense results in serious bodily injury; or

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

SECTION 2. [EFFECTIVE JULY 1, 2008] IC 35-42-4-3, as amended by this act, applies to crimes occurring after June 30, 2008.

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